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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BC30

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Snapper-Grouper Fishery off the Southern Atlantic States;
Transferability of Black Sea Bass Pot Endorsements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces that the South Atlantic Fishery Management Council (Council) has submitted a revision of a disapproved action (the Resubmittal) from Amendment 18A to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 18A) for review, approval, and implementation by NMFS. The Resubmittal would allow black sea bass pot endorsements to be transferred under specific conditions.

DATES: Written comments must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the amendment identified by "NOAA-NMFS-2012-0128" by any of the following methods:

- Electronic submissions: Submit electronic comments

via the Federal e-Rulemaking Portal:

<http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Kate Michie, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter "NOAA-NMFS-2012-0128" in the search field and click on "search". After you located the notice of availability, click on "Submit a Comment" link in that row. This will display the comment web form. You can enter your submitter information (unless you prefer to remain anonymous), and type your comment on the web form. You can also attach additional files (up to 10MB) in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

For further assistance with submitting a comment, see the

"Commenting" section at <http://www.regulations.gov/#!faq> or the Help section at <http://www.regulations.gov>.

Electronic copies of the Resubmittal may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>. The Resubmittal includes a Regulatory Impact Review and a Fishery Impact Statement.

FOR FURTHER INFORMATION CONTACT: Kate Michie, telephone: 727-824-5305, or e-mail: Kate.Michie@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the Federal Register notifying the public that the plan or amendment is available for review and comment.

Background

Amendment 18A, implemented through final rulemaking on July 1, 2012, (77 FR 32408, June 1, 2012), included a provision to limit participation in the black sea bass pot segment of the snapper-grouper fishery through the establishment of an endorsement program. The proposed rule for Amendment 18A (77 FR 06991, March 23, 2012) outlined the criteria for qualifying for an endorsement. As of [insert date of publication in the FEDERAL

REGISTER], 32 South Atlantic snapper-grouper unlimited permit holders qualify for an endorsement, and more could qualify after the appeals process finalizes.

Amendment 18A also contained an action to allow for the transfer of black sea bass pot endorsements. However, NMFS disapproved this action because Amendment 18A and the supporting environmental impact statement identified the incorrect preferred alternative. In addition, there were discrepancies in the record regarding the Council's discussion of the alternatives. Therefore, NMFS was unable to implement the action in compliance with the Administrative Procedures Act. The Council decided to revise and resubmit the action addressing transferability of black sea bass pot endorsements in an amendment (the Resubmittal). All reasonable alternatives for the transferability action were analyzed in Amendment 18A according to the National Environmental Policy Act, including biological, economic, social, administrative, and cumulative impacts of the action.

The Resubmittal contains one action that would allow transfer of a black sea bass pot endorsement to an individual or entity that holds or simultaneously obtains a valid South Atlantic snapper-grouper unlimited permit. In order to be transferred, a black sea bass pot endorsement must be valid or renewable. Black sea bass pot endorsements may be transferred

independently from the South Atlantic snapper-grouper unlimited permit with which it is associated. Landings history would not be transferred with the endorsement. NMFS will attribute black sea bass landings to the associated South Atlantic snapper-grouper unlimited permit regardless of whether the landings occurred before or after the endorsement was issued. Black sea bass pot endorsements would not be renewed automatically with the South Atlantic snapper-grouper permit with which it is associated. The endorsement must be renewed separately from the permit using the Federal Permit Application for Vessels Fishing in the Exclusive Economic Zone (EEZ).

The Council has submitted for Secretarial review, approval and implementation, a revised action from Amendment 18A establishing black sea bass endorsement transferability. NMFS' decision to approve, partially approve, or disapprove the Resubmittal will be based, in part, on consideration of comments, recommendations, and information received during the comment period on this notice of availability. After consideration of these factors, and the action's consistency with the Magnuson-Stevens Act and other applicable law, NMFS will publish a notice of agency action in the Federal Register announcing the Agency's decision to approve, partially approve, or disapprove the Resubmittal.

Proposed Rule for Amendment 18A

NMFS proposes a rule that would implement measures outlined in the Resubmittal. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the Federal Register for public review and comment.

Consideration of Public Comments

Comments received by [insert date 60 days after date of publication in the FEDERAL REGISTER], whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

Authority: 16 U.S.C. 1801 et seq.

Dated: August 17, 2012.

Lindsay Fullenkamp, Acting Deputy Director,

Office of Sustainable Fisheries, National Marine Fisheries Service.

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